

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07cv100**

BOB STOUT CONSTRUCTION CO.,)	
INC.,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
TOWN OF MARSHALL, NORTH)	
CAROLINA,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
Vs.)	
)	
CLARK & ASSOCIATES, INC., and)	
G. CECIL CLARK,)	
)	
Third-Party)	
Defendants.)	
_____)	

THIS MATTER is before the court on the latest joint Motion to Enlarge Stay. Further stay of this matter is now premised on a local DNR official rescinded the final approval of the project issued by the DNR. Such local determination appears not to be based on the quality of any workmanship, but on a certain additional right-of-way not yet being procured. After considering the Motion the undersigned consulted with

the District Court and has found that both judicial officers agree the court's patience has expired inasmuch as the court has stayed this matter since January 2008, the "final approval" has been granted, and the decision of a local DNR official on a tangential issue simply will not hold up this court's docket further. The right-of-way issue can be decided either through agreement or by a state legal action. In any event this case must move forward to conclusion.

Whether or not a right-of-way can be secured is not relevant to the underlying action and the contacting parties certainly can make a professional judgment as to whether the terms of their agreement and any settlement thereof have been satisfied. The requested further stay will be denied as good cause has not been shown.

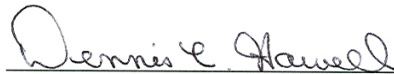
ORDER

IT IS, THEREFORE, ORDERED that the joint Motion to Enlarge Stay (#61) is **DENIED**, and the **STAY** previously entered is **LIFTED** as of the close of business on October 14, 2008. With the lifting of the stay the deadlines are as follows:

- (1) Discovery: November 1, 2008;
- (2) Mediation: November 7, 2008;
- (3) Motions: November 15, 2008; and
- (4) the ready date for trial, the first session after the district court disposes

of the dispositive motions, or the first trial term beginning on or after January 1, 2009.

Signed: October 14, 2008



Dennis L. Howell
United States Magistrate Judge

